

REMARKS

Basis for the amendment to claim 1 may be found in original claim 2. The insertion of the term "patch" in line 4 of claim 1 and in claim 8 provides antecedent basis for the later use of calibration patch in the claim. The amendment to claim 23 incorporates claim 24 into that claim. None of these amendments raised any issues of new matter as they merely incorporate previous dependent claims into the independent claim. Therefore, entry of the amendment is respectfully requested.

In paragraph 4 of the Office Action, claims 1-33 stand rejected under 35 USC 103 as unpatentable over Walker et al. (907) in view of Longacre Jr. et al. (956). The Examiner states that Walker discloses a method and apparatus for automatically locating predefined exposure area in a scanned image comprising exposing photographic element to find a latent image of a reference calibration target having a primary image symbol with a finder feature and known special relation between a reference calibration patch and the finder feature of the primary image symbol., processing the photographic element to form a density image from the latent image, scanning the density image to produce a digital image, locating the finder feature the primary symbol, and locating the reference calibration patch relative to the finder feature in the digital image.. The Examiner states that Walker et al. fails to disclose or fairly suggest that the calibration target includes a two-dimensional barcode. Longacre Jr. et al. is stated to disclose a two-dimensional data encoding structure and symbology for use with optical readers comprising a 2D barcode symbol having a finder feature, and orienting structure which includes L-shaped blocks. The Examiner states that in view of Longacre Jr. et al.'s teachings it would have been obvious for a person of ordinary skill at the time invention was made to modify the system of Walker et al. by substituting L-shaped registration marks with the bar structure of Longacre et al. to facilitate image location. The Examiner states that such a modification would have been an obvious extension of Walker et al. This rejection is respectfully traversed.

The instant invention differs from the barcode technology of Walker et al. and Longacre Jr. et al. in that the art does not show any barcode utilized to find something not in the barcode. The instant invention teaches

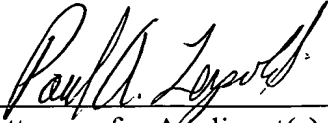
locating an image (calibration patch) outside of the barcode that is separated by a certain spatial relation from the center of the barcode. In contrast, Walker shows a large L-shaped locator, note figures 2-3, whereas the invention uses a separate barcode as the only locator for calibration patch image so there is no waste space as the finder is apart from the image, note the drawings of figure 1 and 2 of the instant application where a separate image area is located adjacent the barcode. While both Walker et al. and Longacre Jr et al. have locator systems, there is no disclosure of the utilization of a reference calibration patch separate from a two-dimensional barcode symbol. This invention is a substantial improvement over the system of Walker which utilizes a large shape of locator to find the calibration patch thereby wasting space.

In paragraph 6 of the office action, the Examiner responds to the applicant's argument that Examiner's conclusion of obviousness is based upon improper hindsight reasoning. The Examiner points out that as long as the Examiner's reasoning takes into account only knowledge which is within the level ordinary skill at the time the claims invention was made and does not include knowledge cleaned only for napkins disclosure such reconstruction is a proper rejection and not hindsight reasoning. However, it is respectfully urged that in the instant application the Examiner has not shown that the ordinary skill in the art contemplated or made obvious the instant invention. There is no combination of Walker et al. and Longacre Jr. et al. that would lead one to the novel and nonobvious variation where the calibration patch and the two-dimensional barcode symbol are a known spatial distance apart. As above pointed out, the location of the calibration patch separate from the barcode symbol is a much more efficient use of space and is not suggested by any combination of the references. This is not an instance where Longacre Jr. teaches this concept and it is substituted into Walker et al. Neither of the references teach the concept.

Therefore, it is respectfully requested that the rejections under 35 USC 103 be reconsidered and withdrawn and that an early Notice of Allowance

be issued in this application. In the alternative, it is respectfully requested that this amendment be entered for purposes of appeal.

Respectfully submitted,



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